



# Senate

General Assembly

January Session, 2011

**File No. 733**

Senate Bill No. 1211

*Senate, May 3, 2011*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## ***AN ACT CONCERNING POSTJUDGMENT INTEREST.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-356d of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) When a judgment is rendered against a natural person, the  
4 judgment creditor or judgment debtor may move the court for an  
5 order for installment payments in accordance with a money judgment.  
6 After hearing and consideration of the judgment debtor's financial  
7 circumstances, the court may order installment payments reasonably  
8 calculated to facilitate payment of the judgment.

9 (b) In the case of a consumer judgment, the court may provide that  
10 compliance with the installment payment order, other than with an  
11 order for nominal payments pursuant to subsection (c) of this section,  
12 shall stay any property execution or foreclosure pursuant to that  
13 judgment, provided such a stay is reasonable considering the nature of  
14 the debt and the financial circumstances of the judgment debtor. In the

15 case of a judgment arising out of services provided at a hospital, the  
16 court shall provide that compliance with the installment payment  
17 order shall stay any property execution or foreclosure pursuant to that  
18 judgment, including, but not limited to, execution on wages, execution  
19 on bank accounts, and execution on or foreclosure of real property.

20 (c) Notwithstanding the hearing requirement of subsection (a) of  
21 this section, on motion of the judgment creditor for an order of  
22 nominal payments, the court shall issue ex parte, without hearing, an  
23 order for nominal installment payments. The amount which shall  
24 constitute an order of nominal payments shall be set by the judges of  
25 the Superior Court. Such an order for nominal payments may be  
26 modified on motion of either party after hearing and consideration of  
27 the judgment debtor's financial circumstances.

28 (d) An installment payment order shall not be enforced by contempt  
29 proceedings, but on the judgment debtor's default on payments  
30 thereon, the judgment creditor may apply for a wage execution  
31 pursuant to section 52-361a.

32 (e) Interest on a money judgment at the rate of ten per cent a year,  
33 and no more, shall [continue to] be recovered and allowed and shall  
34 accrue under any installment payment order on such portion of the  
35 judgment as remains unpaid.

36 (f) On motion of either party and after notice and hearing or  
37 pursuant to a stipulation, the court may make such modification of an  
38 installment payment order as is reasonable.

39 Sec. 2. Subsection (a) of section 37-3a of the general statutes is  
40 repealed and the following is substituted in lieu thereof (*Effective*  
41 *October 1, 2011*):

42 (a) Except as provided in sections 37-3b, 37-3c, [and] 52-192a and 52-  
43 356d, as amended by this act, interest at the rate of ten per cent a year,  
44 and no more, may be recovered and allowed in civil actions or  
45 arbitration proceedings under chapter 909, including actions to recover

46 money loaned at a greater rate, as damages for the detention of money  
47 after it becomes payable. Judgment may be given for the recovery of  
48 taxes assessed and paid upon the loan, and the insurance upon the  
49 estate mortgaged to secure the loan, whenever the borrower has  
50 agreed in writing to pay such taxes or insurance or both. Whenever the  
51 maker of any contract is a resident of another state or the mortgage  
52 security is located in another state, any obligee or holder of such  
53 contract, residing in this state, may lawfully recover any agreed rate of  
54 interest or damages on such contract until it is fully performed, not  
55 exceeding the legal rate of interest in the state where such contract  
56 purports to have been made or such mortgage security is located.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2011</i>	52-356d
Sec. 2	<i>October 1, 2011</i>	37-3a(a)

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill clarifies statute by stating that whenever an installment payment order is issued by the court, postjudgment interest of 10% per year shall accrue on any portion of the judgment that remains unpaid. This clarification does not have a fiscal impact on the Judicial Department, as it affects installment payments between private parties.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****SB 1211*****AN ACT CONCERNING POSTJUDGMENT INTEREST.*****SUMMARY:**

By law, the court can order an individual to make reasonably calculated installment payments on a judgment against him or her to facilitate payment. This bill requires the court to order the judgment debtor to pay 10% interest on the unpaid portion of the judgment. Under current law, it is unclear whether interest is mandatory or whether the court has discretion to award it.

Current law generally authorizes a court to award 10% interest in civil actions (CGS § 37-3a(a)). Under case law, courts can award less than 10% interest (*Sears, Roebuck and Company v. Board of Tax Review of the Town of West Hartford*, 241 Conn. 749 (1997)). The law limits interest on debt arising from hospital services to 5% (CGS § 37-3a(b)).

EFFECTIVE DATE: October 1, 2011

**BACKGROUND*****Related Case***

The Appellate Court ruled that courts have discretion under CGS § 37-3a to award post-judgment interest in any case, including when it orders installment payments. Thus, a judgment creditor may request post-judgment interest to accrue on the judgment and if the court awards it, interest accrues on the unpaid portion owed under an installment payment order (*Discover Bank v. Mayer*, 127 Conn. App. 813 (2011)).

Also, the federal district court recently requested that the Connecticut Supreme Court interpret this statute to determine whether it requires interest to accrue and, if it does, what interest rate applies

*(Ballou v. Law Offices of Howard Lee Schiff, P.C., 713 F.Supp.2d 79 (2010)).*

The case is pending.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea     45     Nay   0     (04/14/2011)